

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

WARNER BROS. ENTERTAINMENT INC. and  
J.K. ROWLING,

Plaintiffs,

Case No. 07-CV-9667 (RPP)

-against-

RDR BOOKS and DOES 1-10,

Defendants.

**DECLARATION OF EMILY BLUMSACK IN SUPPORT  
OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, Emily Blumsack, declare and state as follows:

1. I am an associate in the law firm of O'Melveny & Myers LLP, counsel for Warner Brothers Entertainment, Inc. ("Warner Bros.") and J.K. Rowling in this action. Except for the facts stated on information and belief, all of the facts set forth herein are known to me personally, and if called as a witness, I could and would testify competently thereto.

## The Infringing Book

2. A draft copy of the Infringing Book produced by Defendant indicates that the book will only consist of dictionary/encyclopedia-style listings that retell plots, recreate events, and describe the characters, spells and other magical elements from all seven of the *Harry Potter* books and the two Companion Books authored by Ms. Rowling, as well as the Warner Bros.' *Harry Potter* films. Upon information and belief, the Infringing Book contains thousands of entries detailing most, if not all, of the fictional "facts" from the *Harry Potter* series and which

have merely been reorganized from their original presentation as found in Ms. Rowling's works into an alphabetical listing. For example, the Infringing Book includes synopses of major plots and story lines of the *Harry Potter* books, descriptions of the history and personalities of the *Harry Potter* characters, and catalogues the fictional creatures and elements that constitute the "heart" of the *Harry Potter* series. All of these facts are taken from the *Harry Potter* books. The Infringing Book contains no literary criticism or analytical discussion of the *Harry Potter* works. For example, there is no analysis of the *Harry Potter* books in reference to other books, or any analysis of themes and meanings of the books or their role in literature.

3. Defendant has produced in discovery a manuscript for the proposed book. Attached hereto as **Exhibit A** is a true and correct copy of the section of the Infringing Book containing letters A-D as formatted and typeset for publication. Attached hereto as **Exhibit B** is a true and correct copy of the section of the Infringing Book containing letters E-Z as produced by Defendant without formatting and typesetting for publication.

4. Upon information and belief, the back cover of the Infringing Book originally produced by RDR Books pursuant to the Court's Expedited Discovery Order contains a quotation from Ms. Rowling from 2004 that refers to the Lexicon Website and not the Infringing Book. Attached hereto as **Exhibit C** is a color copy of the cover of the Infringing Book that was originally produced pursuant to the Court's Order.

5. Upon information and belief, after producing the cover of the Infringing Book to Plaintiffs, RDR Books subsequently redesigned the cover of the Infringing Book which they have since produced. This revised book cover continues to bear the inaccurate and misleading quotation from Ms. Rowling, and has hidden its disclaimer in the folds of a design element

shaped like an antique book. Attached hereto as **Exhibit D** is a color copy of the revised cover of the Infringing Book that was subsequently produced by Defendant.

#### **Other Books about *Harry Potter***

6. Upon information and belief, other books about the *Harry Potter* series that are on the market, unlike the Infringing Book, generally contain analysis, commentary, criticism, or other original contributions and are not merely comprised of recapitulations of elements referenced and described in the *Harry Potter* series, Warner Bros.' *Harry Potter* films and Ms. Rowling's companion books, *Fantastic Beasts and Where to Find Them* and *Quidditch Through the Ages*. In addition, I am not aware of any other book on the market about *Harry Potter* that is sold with an apparent quote from Ms. Rowling supposedly endorsing the book.

7. I understand that RDR Books has stated in the press that their encyclopedia is the same as other books that have been printed about the series, but this is not true. There have been numerous books published analyzing the *Harry Potter* books or commenting on them as a cultural phenomenon. The contrast, however, between the content of these books as compared to the content of the Infringing Book could not be clearer. For example:

- a. *Muggles and Magic: An Unofficial Guide to J.K. Rowling and the Harry Potter Phenomenon* by George Beahm - True and correct copies of the front and back covers and illustrative pages from *Muggles and Magic: An Unofficial Guide to J.K. Rowling and the Harry Potter Phenomenon* are attached hereto as **Exhibit E**.

This book is organized by topics such as "The Real World of Joanne Rowling," "Harry Potter - Screen Magic" and "Harry Potter Websites." It is further divided into

chapters that include essays about Ms. Rowling's life and literary career, the cultural phenomenon surrounding the *Harry Potter* books, casting the *Harry Potter* films, and a section on a book reading by Ms. Rowling, Stephen King and John Irving. The book also contains chapters that talk about each of the *Harry Potter* books, providing selected reviews, commentary about the publication, and detailing awards they have won. Prominently displayed on the front cover is a disclaimer printed in large white letters identifying that it is "An Unofficial Guide." In smaller golden text at the bottom of the front cover is the following disclaimer: "This book is not prepared, endorsed, or authorized by J.K. Rowling or Warner Bros. and is not part of the Harry Potter Series."

- b. *Beacham's Sourcebooks for Teaching Young Adult Fiction: Exploring Harry Potter* by Elizabeth D. Schafer - True and correct copies of the front and back covers and illustrative pages from *Beacham's Sourcebooks for Teaching Young Adult Fiction: Exploring Harry Potter* are attached hereto as **Exhibit F**.

This book includes discussions about the *Harry Potter* phenomenon, the many reasons for the series' appeal, an "interpretive biography" of Ms. Rowling's career, an exploration of characters, settings, activities and themes that thread through the *Harry Potter* books. It also contains chapters on mythology, biblical references, science, and the history of witchcraft. The book presents critical analyses of various literary qualities of the *Harry Potter* books, including the use of names, language, humor, color, numbers and gender, and devotes a chapter to the moral and social codes reflected in and challenged by the series. While the book includes descriptions of each of the *Harry Potter* books, starting with a 2-3 page overview, this material is

intermingled with vocabulary lessons, highlighted themes, symbols and mythical references, along with suggested questions for critical discussion of each chapter. Prominently displayed at the top of the front cover are the words “NOT Approved by J.K. Rowling.”

- c. ***If Harry Potter Ran General Electric: Leadership Wisdom from the World of the Wizards* by Tom Morris** - True and correct copies of the front and back covers and illustrative pages from *If Harry Potter Ran General Electric* are attached hereto as **Exhibit G**.

This book is a running narrative that discusses normative values that can be seen in the *Harry Potter* novels and lessons that can be learned from the characters and stories within. Organized into seven sections on topics such as courage, confidence and leadership, the book is comprised of a collection of essays thematically linked to the idea of empowering the reader to develop interpersonal skills, a successful career and creating a satisfying life for themselves. While *If Harry Potter Ran General Electric* describes certain plot points of the *Harry Potter* properties and includes limited character quotations, it does so in a limited way in the context of providing context to its analytical assertions. For example, in a section on “Support and Confidence,” the author quotes a single sentence from *Harry Potter and the Order of the Phoenix* in which a character describes living with her rascally older twin brothers: “The thing about growing up with Fred and George...is that you sort of start thinking anything’s possible if you’ve got enough nerve.” The book then discusses the importance of surrounding oneself with positive people in order to achieve one’s goals. The front cover includes the following disclaimer: “This book

has not been prepared, approved, or licensed by any person or entity that created, published, or produced the Harry Potter books or related properties.”

8. It is also my understanding that, in the press, RDR Books has identified at least two specific titles as examples of published books that are similar to the Infringing Book. I have reviewed these two books and observe that they are fundamentally different from the manuscript of the Infringing Book that RDR Books produced to us, as discussed below:

- a. *Mugglenet.com's What Will Happen in Harry Potter 7* by Ben Schoen, Emerson Spartz, Andy Gordon, Gretchen Stull and Jamie Lawrence - True and correct copies of the front and back covers and illustrative pages from *Mugglenet.com's What Will Happen in Harry Potter 7* are attached hereto as **Exhibit H**.

This book is primarily a collection of observations about the characters and story arc of the first six *Harry Potter* books. The authors offer predictions about the resolution of pressing questions and mysteries that they expect to be answered in the final installment of the series, *Harry Potter and the Deathly Hallows*. References to the first six *Harry Potter* books, while more in-depth than those in *If Harry Potter Ran General Electric* discussed above, are presented in the context of analyzing themes and relationships between the characters. For example, the book lists seven examples of “debts between friends” and “debts between enemies” -- a single sentence each -- to discuss whether these debts will be repaid in the final installment of Ms. Rowling's *Harry Potter* series. Prominently displayed on the front cover is a red image of "sealing wax" stamped just left of the middle of the page which states in gold writing: "Unauthorized 'Deathly Hallows' Predictions." The back cover includes

a statement telling readers that the book is unauthorized, does not have any affiliation with or sponsorship by Ms. Rowling, her publishers, or other copyright holders, and states that all references to copyrighted or trademarked characters and other elements of the books are for the purpose of commentary, criticism, analysis, and literary discussion only.

- b. *The Complete Idiot's Guide to the World of Harry Potter* by Tere Stouffer - True and correct copies of the front and back covers and illustrative pages from *The Complete Idiot's Guide to the World of Harry Potter* are attached hereto as **Exhibit I**.


This book is organized into five parts: "Wizards, Monsters and Creatures of All Sorts," "Where and How the Wizards Are," "Magical Places," "Spells, Potions, and Other Ways of Performing Magic," and "Regulating Magic and the Wizards Who Perform It." Each part includes chapters arranged by topic. For example, "Magical Places" includes chapters on "Where the Witches Go in London," "Hogwarts School and Hogsmeade," and "International Wizarding Schools." The content of the text only references the original *Harry Potter* works in order to discuss noteworthy facts external to the books, such as the origin of words and names or to draw parallels between characters, creatures and plots elements in the *Harry Potter* books and those in other mythologies around the world. For example, the entry for Rubeus Hagrid is two paragraphs long (each is only 2-3 sentences). The first identifies his role in the *Harry Potter* series, and the second discusses the Latin origins of his name. In its discussion of wands, the book discusses different kinds of wood used in their manufacture, explaining, for example, that the wood of an Ash tree is considered particularly magical and powerful in Norse mythology. The book also includes "cut

always” explaining British terminology used in the *Harry Potter* books and travel tips for readers interested in visiting locations referenced in the series. The author uses a tongue-in-cheek tone and includes significant commentary throughout the book. The entire cover of the book is outlined in the recognizable orange trade dress which identifies that it is part of the “Complete Idiot’s Guide” series, and therefore is not sponsored by Ms. Rowling or Warner Bros., and includes a small disclaimer stating that “[t]his book was not authorized, prepared, approved, licensed, or endorsed by J.K. Rowling, Scholastic, Warner Bros., or any other individual or entity associated with the HARRY POTTER books or movies.” Moreover, the first paragraph of the author’s introduction contains the following explanation:

“In these pages, you won’t find character sketches, plot summaries, or details about who said what on which page of which novel. Instead, you get to explore J.K. Rowling’s genius even more deeply, discovering the background of terminology, characters, places, and ideas throughout her novels.”

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on January 15, 2008, at New York, New York.

Respectfully submitted,

By:   
Emily Blumsack